Case 1:23-cv-00836-VEC Document 5 Filed 03/29/23



DOCUMENT ELECTRONICALLY FILED DOC #:____ DATE FILED: 3/29/2023

Application GRANTED. The Court interprets the instant filing as a request to withdraw Mr. Belle's purported Section 2255 petition. *See* Dkt. 1778. Mr. Belle may bring a new Section 2255 petition within the prescribed deadline as described in this Court's February 9, 2023 Order. *See* Dkt. 1779.

The Clerk of Court is respectfully directed to terminate the open motion at docket entry 1778; to close the civil case, 23-CV-836; and to mail a copy of this Endorsement to Mr. Belle and note the mailing on the docket.

Date: 3/29/2023

SO ORDERED.

HON. VALERIE CAPRONI

UNITED STATES DISTRICT JUDGE

United States District Court Southern District of New York

Wendell Belle,

Movant,

- V-

united states OF America,

Respondent,

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23-CV-0836 (VEC)

15-CR-0537-3(VEC);

Before U.S. District Judge, Valerie E. Caprons,

Pro-se Motion For Leave Respectfully Requesting This Said Court to Completely withdraw Proceeding Civil No# 23-CV-0836 (VEC) Because Its Premature

Now Comes wendell Belle, through the assistance of another federal prisoner, at (USP) McCreary, he respectfully moves this Court to grant him this motion pursuant to (Premature) based on the following reason(s).

i) As this Court already recognized in its Feb. 9, 2023, order under "BACKGROUND" the Movant was transferred from State to Sederal Costody on Nov. 23, 2022, that its supported by the record and white he was in state Constody, he did not have not only any type of access to federal law, ("But also his appellate Counsel Completely abandoned him. Appellate Counsel steven y, yurawitz, not once mailed movant anything surrounding his direct appeal, not even a copy of his appeal briefs the issues counsel raised, the Appellee's Movant's Conviction under Not 21-544(c), The movant did not have on this Court's Feb. 9, 2023, order (wow).")

2) Additionally, Mr. yurowitz, did not inform the movement that he has the right to file "en banc, or Certiorar" nor did counsel ever much mention to him anything about a \$2355 nor its Proceed-ings," which this alone is a serious violation of movant's constitutional rights, and a clear ineffectiveness of appellate Counsel,

3), when Movant had another federal Prisoner draft A "Motion for Reconsideration", at the (MDC) in Brooklyn, NY, this other federal Prisoner seem to not no federal law either what scever... Because this other Federal Prisoner should had known to file A motion to the 2nd Cir. Court, or write A better to the 2nd Cir. Court Clerk and A fetter to his Appellate Counsel requesting an update on his appeal Proceeding.

4) Either way, as this court recognize already, the 2nd cir, affirmed Movant's Conviction on or about Nov. 17, 2022, to file Certiforari to the expiration of the 90-days Period 13.1. Movant's one year to file his timely \$ 2258 motion 797 Fed. Appx. 52 (2nd Cir. 2019) (Citing Clay V. United States, 537 U.S. 522, 525 (2003)). Also see Davis V. United States, Fed. Appx. 19 (2nd Cir. 2016) (Citing Clay supra.). Disregard Brown Supra.

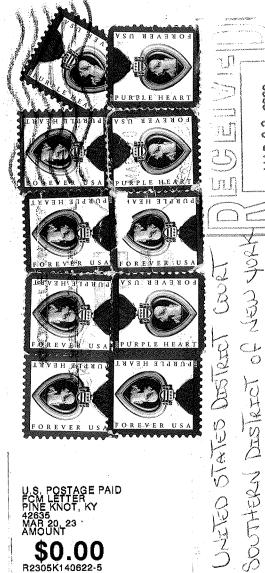
5) Therefore, the movement Clearly understands now, that he still has about 81/2 months still left to effectively file his \$2255 grant this motion because filing movant's \$2255 motion on or months that he still has left on the one year statute of 12m/ta-1550es necessary to be granted an ("Evidentiary Hearing") on those specific issues.

Date: 3/17/2023

Respectfully Submitted, 15) wendell Belle's Signature

Foot Note:

The Federal Penitentiary McCreary, at P.O. BOX 3000, Pine knot, ky, 43635, were movement is being housed is constantly on Dys lockdown that has hinder him to access to A typerwriter etc... so he had no choice but to file this Pro Se motion in pen due to the seriousness of this court's Feb. 9, 2023, order-



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Jnited States Penitentiary McCreary

P.O.Box 3000 Pine Knot, KY 42635

Soopearl Street

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